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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,821	08/06/2003	Mickey L. Fong	P08007US00/RFH	6746
881	7590	01/11/2005	EXAMINER	
STITES & HARBISON PLLC 1199 NORTH FAIRFAX STREET SUITE 900 ALEXANDRIA, VA 22314			SINGH, SUNIL	
			ART UNIT	PAPER NUMBER
			3673	

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/634,821

Applicant(s)

FONG, MICKEY L.

Examiner

Sunil Singh

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3,6,11 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Pugliese (US 1299026).

Pugliese discloses a floatation device for use as a barrier, said floatation device comprising an outer solid water impermeable elongate tubular shell member (b) an inner solid water impermeable elongate tubular shell member (c) concentric with said outer tubular shell member and spaced therefrom so as to form a cavity therebetween; a floatation medium within said cavity (see page 1 col. 55+), and a floatation medium (see page 1 col. 55+) within said inner tubular shell member. (re claim 11), the ship is considered as the mounting member and the superstructure (see page 1 line 85+) is considered as the superstructure.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3673

3. Claims 4-5, 7-10, 12-18, 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pugliese in view of Wooley et al..

Pugliese discloses the invention substantially as claimed. However, Pugliese is silent about the inner tubular member being made out of plastic and the inner floatation member being foam. Pugliese is also silent about including a downward barrier, outwardly protective barrier elements, superstructure having open framework with longitudinal connector members and a warning sign. Further, Pugliese is silent about his floatation device being a plurality of floatation devices connected end to end.

Wooley et al. teaches a floatation device for use as a barrier, said floatation device comprising an inner elongate plastic tubular member (12,27, see paragraph [0066]), a foam floatation medium (21) within said inner tubular member, a downward barrier (46), outwardly protective barrier elements (19), superstructure (15) having open framework with longitudinal connector members (17) and a warning sign (see paragraph [0045]). Further, Wooley et al. teaches a plurality of floatation devices connected end to end (57).

It would have been considered obvious to one of ordinary skill in the art to modify Pugliese by making his inner tubular member out of plastic and the inner floatation member out of foam; to include a downward barrier, outwardly protective barrier elements, a superstructure having open framework with longitudinal connector members and a warning sign; and to make his floatation device as a plurality of floatation devices connected end to end as taught by Wooley et al. in order to increase ship protection. It should be noted that having the floatation device as a plurality of

Art Unit: 3673

floatation devices connected end to end reduce cost in the event one of the device is damaged only that particular section needs to be replaced instead of the entire structure.

4. Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pugliese in view of Kasai et al. (US 4174186).

Pugliese discloses the invention substantially as claimed. However, Pugliese lacks a plurality of floatation devices connected end to end by a cable means. Kasai et al. teaches a plurality of floatation devices connected end to end by a cable means (36). It would have been considered obvious to one of ordinary skill in the art to modify Pugliese by making his floatation device as a plurality of floatation devices connected end to end by a cable means as taught by Kasai et al. since having the floatation device as a plurality of floatation devices connected end to end reduce cost in the event one of the device is damaged only that particular section needs to be replaced instead of the entire structure.

5. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pugliese in view of Good (US 6602103) and Kasai et al. (US 4174186).

Pugliese discloses the invention substantially as claimed. However, Pugliese lacks the connecting means called for in claim 24. Good and Kasai et al. teach the connecting means called for in claim 24 (see Fig. 4, (36) respectively). It would have been considered obvious to one of ordinary skill in the art to modify Pugliese by making his floatation device as a plurality of floatation devices connected end to end as taught by Good and Kasai et al. since having the floatation device as a plurality of floatation

Art Unit: 3673

devices connected end to end reduce cost in the event one of the device is damaged only that particular section needs to be replaced instead of the entire structure.

Response to Arguments

6. Applicant's arguments with respect to claims 1, 15 and 19 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunil Singh whose telephone number is (703) 308-4024. The examiner can normally be reached on Monday through Friday 8:30 AM - 5:00 PM.

Art Unit: 3673

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sunil Singh
Primary Examiner
Art Unit 3673



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